

of up to five years, subject to the availability of appropriations. In determining the number of years for which a commitment will be made, HUD will consider the nature of the activities proposed, the capability of the recipient to carry out the proposed activities, and year-by-year funding requirements.

(2) Awards will be made on the basis of a 12-month period of performance. Once a recipient has been selected for a multi-year award, that recipient would not be required to compete in a competition for the subsequent funding years covered by the multi-year funding commitment. Recipients performing satisfactorily will be invited to submit applications for subsequent funding years in accordance with requirements outlined in the Notice of Funding Availability and Request for Grant Application. Subject to the availability of appropriations, subsequent-year funding will be determined by the following:

(i) The recipient has submitted all reports required for the previous year or years in a timely, complete and satisfactory manner in accordance with the terms and conditions of the grant.

(ii) The recipient has submitted sufficient evidence to demonstrate successful completion of the tasks and deliverables of the grant. A determination of satisfactory performance will be made by HUD based upon evidence of task completions provided by the recipient, along with data from client feedback and site evaluations.

(iii) The recipient has submitted the next annual application.

(iv) The subsequent year's application is consistent with that described in the original application.

(3) Recipients participating in multi-year funding projects are not eligible to apply for additional grants for the same project or activity subject area for which they are receiving funds. Recipients are, however, eligible to compete for grants for other project or activity areas.

(h) *Selection and notification.* The HUD decision to approve, disapprove or conditionally approve an application shall be communicated in writing to the applicant.

(i) *Environmental and intergovernmental review.* The requirements for Intergovernmental Reviews do not apply to HBCU awards. HUD will conduct an environmental review in accordance with 24 CFR part 50 before giving its approval to a proposal.

[56 FR 18968, Apr. 24, 1991]

**§ 570.405 The insular areas.**

(a) *Eligible applicants.* Eligible applicants are Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) *Threshold requirements.* HUD shall review each grantee's progress on outstanding grants made under this section based on the grantee's performance report, the timeliness of close-outs and compliance with fund management requirements and pertinent regulations, taking into consideration the size of the grant and the degree and complexity of the program. If HUD determines upon such review that the applicant does not have the capacity effectively to administer a new grant, or a portion of a new grant, in addition to grants currently under administration, the applicant shall not be invited to submit an application for the current year's funding.

(c) *Previous audit findings and outstanding monetary obligations.* HUD shall not accept for review an application from an applicant that has either an outstanding audit finding for any HUD program, or an outstanding monetary obligation to HUD that is in arrears, or for which a repayment schedule has not been established and agreed to. The Field Office manager may waive this restriction if he or she finds that the applicant has made a good faith effort to clear the audit. In no instance, however, shall a waiver be provided when funds are due HUD, unless a satisfactory arrangement for repayment of the debt has been made and payments are current.

(d) *Criteria for funding.* The Secretary shall establish, for each fiscal year, an amount for which eligible applicants may apply. Grant amounts will be based on population of the applicant and its performance in previous years. In determining performance, HUD will

consider program achievements and the applicant's effectiveness in using program funds. Effectiveness in using program funds shall be measured by reviewing audit, monitoring and performance reports.

(e) *Application and performance reporting.* Application and performance reporting requirements are as follows:

(1) Applicants must submit applications within 90 days of the notification of the grant amount from HUD.

(2) Applicants shall prepare and publish or post a proposed application in accordance with the citizen participation requirements of paragraph (h) of this section.

(3) Applicants shall submit to HUD a final application containing its community development objectives and activities. This application shall be submitted to the appropriate HUD office, together with the required certifications, in a form prescribed by HUD.

(4) Grant recipients must submit to HUD an annual performance report on progress achieved on previously funded grants. Grant recipients must submit the report at a time and in a format determined by HUD. The report should be made available to citizens in accordance with the requirements of paragraph (h)(1)(iv) of this section.

(f) *Costs incurred by the applicant.* (1) Notwithstanding any other provision of this part, HUD will not reimburse or recognize any costs incurred by an applicant before submission of the application to HUD.

(2) Normally, HUD will not reimburse or recognize costs incurred before HUD approval of the application for funding. However, under unusual circumstances, the Field office manager may consider and conditionally approve written requests to recognize and reimburse costs that will be incurred after submission of the application but before it is approved where failure to do so would impose undue or unreasonable hardship on the applicant. Conditional approvals will be made only before the costs are incurred and where the conditions for release of funds have been met in accordance with 24 CFR 58.22, and with the understanding that HUD has no obligation whatsoever to approve the application or to reimburse the applicant should the application be disapproved.

(g) *Criteria for conditional approval.* HUD may approve a grant subject to specified conditions. In any such case, the obligation and utilization of funds may be restricted. The reasons for the conditional approval and the actions necessary to remove the conditions shall be specified. Failure of the applicant to satisfy the conditions may result in a termination of the grant. A conditional approval may be granted under any of the following circumstances:

(1) When local environmental reviews under 24 CFR part 58 have not yet been completed;

(2) To ensure that actual provision of other resources required to complete the proposed activities will be available within a reasonable period of time;

(3) To ensure that a project can be completed within its estimated costs;

(4) Where the grantee is required to satisfy an outstanding debt due to HUD under a payment plan executed between the grantee and the Department;

(5) Pending resolution of problems related to specific projects or the capability of the grantee to obtain resources needed to carry out, operate or maintain the project; or

(6) Pending approval of site and neighborhood standards for proposed housing projects.

(h) *Citizen participation.* (1) The applicant shall provide for appropriate citizen participation in the application and amendment process. The applicant must, at least, do each of the following:

(i) Furnish citizens with information concerning the amount of funds available for community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low and moderate income, and the plans of the grantee for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced;

(ii) Hold one or more public hearings (scheduled at convenient times and places) to obtain the views of citizens on community development and housing needs;

(iii) Develop and publish or post the community development statement in

such a manner as to afford affected citizens an opportunity to examine its contents and to submit comments;

(iv) Afford citizens an opportunity to review and comment on the applicant's performance under any community development block grant.

(2) Before submitting the application to HUD, the applicant shall certify that it has:

(i) Met the requirements of paragraph (h)(1) of this section;

(ii) Considered any comments and views expressed by citizens; and

(iii) If appropriate, modified the application accordingly and made the modified application available to citizens.

[50 FR 37526, Sept. 16, 1985, as amended at 60 FR 56914, Nov. 9, 1995; 61 FR 32269, June 21, 1996]

EFFECTIVE DATE NOTE: At 61 FR 32269, June 21, 1996, § 570.405(e)(4) was revised. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### **§ 570.406 Formula miscalculation grants.**

(a) *General.* Grants under this section will be made to States and units of general local government determined by the Secretary to have received insufficient amounts under section 106 of the Act as a result of a miscalculation of its share of funds under such section.

(b) *Application.* Since the grant is to correct a technical error in the formula amount which should have been awarded under section 106, no application is required.

(c) *Use of funds.* The use of funds shall be subject to the requirements, certifications and Final Statement otherwise applicable to the grantee's section 106 grant funds provided for the fiscal year in which the grant under this section is made.

(d) *Unavailability of funds.* If sufficient funds are not available to make the grant in the fiscal year in which the Secretary makes the determination required in paragraph (a) of this section, the grant will be made, subject to the availability of appropriations for this subpart, in the next fiscal year.

[56 FR 41940, Aug. 26, 1991]

#### **§ 570.410 Special Projects Program.**

(a) *Program objectives.* The Community Development Special Projects Program enables HUD to award grants to States and units of general local government, subject to availability of funds, for special projects that address community development activities or techniques consistent with the purposes of title I of the Housing and Community Development Act of 1974, as amended.

(b) *Eligible applicants.* Only States and units of general local government (as defined in § 570.3) are eligible to submit proposals or applications for Special Projects grants. Proposals or applications may be submitted by eligible applicants on behalf of themselves, on behalf of other eligible applicants, or jointly by more than one eligible applicant.

(c) *Eligible activities.* (1) Project activities that may be funded under this section are those eligible under 24 CFR part 570—Community Development Block Grants, subpart C—Eligible Activities. No more than twenty (20) percent of the funds awarded under this section may be used for overall program administration or planning activities eligible under §§ 570.205 and 570.206.

(2) The amount of funds awarded to a unit of general local government under this section that may be used for public service activities is limited. The applicant may use whichever of the following methods of calculation yields the highest amount:

(i) Fifteen percent of the special projects grant;

(ii) An amount equal to 15 percent of the sum of special project grant funds plus grant funds received for the same federal fiscal year under the Entitlement or State program, less the amount of the Entitlement or State program grant funds which will be used for other public service activities; or

(iii) In the case of an applicant that is an Entitlement grantee subject to the exception in § 570.201(e)(3), an amount equal to the amount of the Entitlement grant funds received for the same federal fiscal year that may be used for public service activities, less the amount of the Entitlement grant